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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,909	02/07/2002	Jakobus Middeljans	PHNL 010072	9407

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

SHIN, KYUNG H

ART UNIT PAPER NUMBER

2143

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/068,909

Applicant(s)

MIDDELJANS, JAKOBUS

Examiner

Kyung H. Shin

Art Unit

2143

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-14.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because:

1.1 Applicant argues that the referenced prior art does not disclose "... user profile created according to a segment profile where the segment profile is itself an aggregation of user profiles ..." (see Remarks Page 6, Lines 18-19)

The Liu (6,839,680) prior art discloses the capability for the aggregation of user profile information. The user profile information processing system is generated from ProReach systems, which are user profile systems. The ProReach systems are grouped into an alliance, which is a group of ProReach systems. The alliance systems are grouped into a larger aggregation of user profile information using the Global Tree Service. (see Liu col. 6, lines 19-23; col. 6, lines 31-36: user profile systems, grouping of systems; col. 15, lines 42-48: aggregation capabilities for user profile information)

1.2 Applicant argues that the referenced prior art does not disclose "... hub making aggregated profile available ..." (see Remarks Page 7, Line 18)

The Liu (6,839,680) prior art discloses the capability to generate aggregated user profile information as one of the available global services. The aggregated profile information is made available for transmission. (see Liu col. 15, lines 52-53: aggregated user information transmitted to ProReach (i.e. user profile) system)

1.3 Applicant argues that the referenced prior art does not disclose "... metadata related to the content is embedded into the content by a watermark ..." (see Remarks Page 10, Lines 27-28)

The Liu (6,839,680) and Davis (6,611,607) prior art combination discloses the capability to embed metadata with content. (see Davis col. 6, lines 30-32: metadata embedded within content; col. 5, lines 19-25: metadata (i.e. text sub-title information) embedded with content (i.e. audio track of video content); col. 2, lines 36-38: metadata located on same medium as first media signal) The metadata is located on the same media as the content. The techniques to place the watermark is immaterial, the metadata is embedded with the actual content. Metadata is information about media and can be text sub-titles, usage rights control information.

1.4 Applicant argues that the secondary reference and the primary reference combination under 35 U.S.C. § 103 is not allowed due to nonobviousness.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Furthermore, in response to applicant's arguments against the reference individually, one cannot show nonobviousness by attacking references individually where rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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2/24/2006 KHS